



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101-3140

OFFICE OF  
AIR AND WASTE

Francea L. McNair  
Executive Director  
Olympic Region Clean Air Agency  
2940 Limited Lane NW  
Olympia, Washington 98502

Re: Approval of Olympic Region Clean Air Agency's Request for Updated Delegation of Authority  
for New Source Performance Standards

Dear Ms. McNair:

This letter is in response to your March 7, 2018 request to update and continue the delegation of authority to implement and enforce certain New Source Performance Standards (NSPS), 40 CFR part 60. After review of your request, the United States Environmental Protection Agency (EPA) hereby grants this updated delegation request, as described below, to the Olympic Region Clean Air Agency (ORCAA) for the identified NSPS in effect on July 1, 2017.

Delegation Request

You have requested to update delegation of the 40 CFR parts 60 NSPS that were previously delegated to ORCAA and to obtain delegation of new standards that EPA has promulgated since your last delegation.

1. Your request for delegation of the following subparts of 40 CFR part 60 was limited to sources that are required to obtain permits under title V of the Clean Air Act: IIII, JJJJ, and QQQQ.
2. Your request for delegation excluded the following subparts of 40 CFR part 60: S, BB, BBa, and OOOOa.<sup>1</sup>

ORCAA demonstrated that on October 16, 2017, ORCAA adopted 40 CFR part 60 unchanged and as in effect on July 1, 2017 into ORCAA's regulations in Rule 8.14.

Delegation of Authority

EPA has determined that ORCAA's regulations continue to provide adequate and effective procedures for implementing and enforcing the NSPS. Accordingly, EPA hereby approves your request for an updated delegation of authority to implement and enforce the NSPS identified in Enclosure A, subject to the following terms and conditions:

1. As requested by ORCAA:

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<sup>1</sup> Subparts S, BB, and BBa apply to primary aluminum reduction plants and Kraft pulp mills which, in the State of Washington, are regulated by the Washington Department of Ecology.

- a. The delegation of 40 CFR part 60t subparts IIII, JJJJ, and QQQQ is limited to implementation and enforcement of the NSPS as of July 1, 2017 and to sources that are required to obtain a permit under title V of the Clean Air Act, regardless of whether a permit has yet been issued.
  - b. The delegation of all other requested NSPS is limited to implementation and enforcement of the NSPS as of July 1, 2017.
2. EPA is not delegating the following provisions under 40 CFR part 60:
  - a. Subpart B, which applies to the adoption and submittal of State plans and actions taken to approve or disapprove such plans by the Administrator of EPA. This subpart is not delegable.
  - b. Subpart C, which states that several other subparts contain emission guidelines and compliance times for the control of certain designated pollutants in accordance with section 111(d) and section 129 of the Clean Air Act and subpart B of 40 CFR part 60. This subpart establishes no authority that is necessary to implement or enforce the program and is not delegable.
  - c. Subparts Cb, Cc, Cd, Ce, Cf, BBBB, DDDD, FFFF, MMMM, and UUUU, which contain emission guidelines for selected source categories. These authorities are retained by EPA.
3. EPA is delegating the identified federal standards as in effect on July 1, 2017. New NSPS or NSPS that are revised substantively after that date are not delegated to your agency; these remain the responsibility of EPA.
  - a. Acceptance of this delegation does not commit your agency to request or accept delegation of future NSPS standards and requirements.
  - b. EPA encourages your agency to update your NSPS delegation on an annual basis. This could coincide with the updating of the adoption by reference of the federal NSPS standards, which is important for maintaining EPA's approval of your part 70 permitting program.
4. EPA is not delegating authorities under 40 CFR part 60 that specifically indicate they cannot be delegated, that require rulemaking to implement, that affect the stringency of the standard, equivalency determinations, or where national oversight is the only way to ensure national consistency.
5. EPA is not delegating standards that have been vacated as a matter of federal law
6. Implementation and enforcement of the delegated NSPS are subject to the current *Compliance Assurance Agreement for Air Quality*, signed by both ORCAA and EPA; except that ORCAA shall provide air stationary source enforcement and compliance data to EPA via the new Integrated Compliance Information System for Air (ICIS-Air) via the Exchange Network. ICIS-Air has replaced the Air Information and Retrieval System (AIRS) Facility Subsystem (AFS) referred to in the *Compliance Assurance Agreement for Air Quality*.
7. Enforcement of these delegated NSPS in your jurisdiction will be the primary responsibility of your agency. Nevertheless, EPA may exercise its concurrent enforcement authority pursuant to sections 111(d)(2) and 113 of the Clean Air Act with respect to sources that are subject to the NSPS.

8. Your agency and EPA should communicate sufficiently to ensure that each is fully informed and current regarding interpretation of regulations (including any unique questions about applicability) and the compliance status of subject sources in your jurisdiction.

a. Any records or reports provided to or otherwise obtained by your agency should be made available to EPA upon request.

b. In accordance with 40 CFR 60.9, the availability to the public of information provided to or otherwise obtained by EPA in connection with this delegation shall be governed by 40 CFR part 2.

9. Your agency will be the recipient of all notifications and reports and be the point of contact for questions and compliance issues for these delegated NSPS. EPA may request notifications and reports from owners/operators and/or your agency, if needed.

10. Your agency will work with owners and operators of affected facilities subject to an NSPS subpart to ensure all required information is submitted to your agency. Your assistance is requested to ensure that this information, including excess emission reports and summaries, is submitted to EPA upon request, if needed.

11. Your agency will ensure that all relevant source notification and report information is entered into the ICIS-Air database system to meet your recordkeeping/reporting requirements. The ICIS-Air reporting elements for "source information" that your agency is expected to provide include, but are not limited to:

- a. Identification of source;
- b. Pollutants regulated;
- c. Applicability of subparts;
- d. Permit number for specific source or sub-unit;
- e. Dates of most recent NSPS compliance evaluations (inspections); and
- f. Compliance status.

12. Your agency will require affected facilities to use the methods specified in 40 CFR part 60, as applicable, in performing source tests pursuant to the regulations. *See* 40 CFR 60.8.

13. Changes and alternatives:

a. Your agency is not delegated the authorities under 40 CFR 60.4(b), 60.8(b), 60.9, 60.11(b), 60.11(e), 60.13(a), 60.13(d)(2), 60.13(g), and 60.13(i). Such approvals remain the responsibility of EPA.

b. Your agency must maintain a record of all approved alternatives to monitoring, testing, and recordkeeping/reporting requirements and provide this list of alternatives to EPA semi-annually or more frequently if requested by EPA. EPA may audit any approved alternatives and disapprove any that it determines are inappropriate, after discussion with your agency. If changes are disapproved, your agency must notify the owner/operator that it must revert to the original applicable monitoring, testing, recordkeeping, and/or reporting requirements. Also, in cases where the owner/operator does not maintain the conditions which prompted the approval of the

alternatives to the monitoring, testing, recordkeeping, and/or reporting requirements, your agency must require the owner/operator to revert to the original monitoring, testing, recordkeeping, and reporting requirements, or more stringent requirements, if justified.

14. Any authorities not addressed in this letter and not identified in any delegated subpart of part 60 as authorities that cannot be delegated shall be considered delegated.

15. Your agency's authority to implement and enforce NSPS under this delegation does not extend to sources or activities located in Indian Country, as defined in 18 U.S.C. 1151.<sup>2</sup> Consistent with previous federal program approvals or delegations, EPA will continue to implement the NSPS in Indian Country because your agency did not adequately demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and in other areas of Indian Country. [ SEQ CHAPTER \h \r 1][ SEQ CHAPTER \h \r 1]

16. The EPA Administrator delegated to EPA, Region 10 the authority to delegate the NSPS to any State or local agency. A State or local agency that receives delegation from EPA, Region 10 does not have the federally recognized authority to further delegate the NSPS.

17. If EPA determines that your agency's procedures for implementing or enforcing the NSPS are inadequate or are not being effectively carried out, this delegation may be revoked in whole or in part by written notice of the revocation. Any such revocation will be effective as of the date specified in the notice.

Unless we receive negative comments from you within ten days, this delegation is final and will be effective ten days from the date of this letter. Otherwise, no further correspondence to EPA is needed from ORCAA to make this delegation effective. We will periodically publish a notice in the Federal Register informing the public of ORCAA's updated delegations.

If you have any questions, please contact Geoffrey Glass of my staff at (206) 553-1847 or [glass.geoffrey@epa.gov](mailto:glass.geoffrey@epa.gov).

Sincerely,

Timothy B. Hamlin  
Director

Enclosure

cc: Stu Clark, Washington Department of Ecology  
Elena Guilfoil, Washington Department of Ecology (email)  
Mark Goodin, Professional Engineer, ORCAA (email)

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<sup>2</sup> Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.